

Committee on Judicial Ethics
Teleconference
Thursday, March 1, 2012

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Edward R. Karazin, Jr., Vice Chair, Professor Jeffrey A. Meyer, Judge Maureen D. Dennis and Judge Thomas J. Corradino, Alternate. Staff present: Attorney Martin R. Libbin, Secretary and Attorney Viviana L. Livesay, Assistant Secretary.

MINUTES

- I. With the above noted members present, Justice Schaller called the meeting to order at 1:32 p.m. Although publicly noticed, no members of the public attended.
- II. The Committee unanimously approved the Minutes of the February 16, 2012 meeting.
- III. The Committee discussed Judicial Ethics Informal 2012-04 concerning whether a Judicial Official may serve as the executor or executrix (hereinafter, fiduciary) of the estate of a first cousin who resides outside of the State of Connecticut.

Additional facts include that the Judicial Official has no reason to believe that the relative will move to Connecticut or that the relative's estate is likely to be engaged in proceedings in any courts in Connecticut.

Rule 3.8(a) of the Code of Judicial Conduct provides in relevant part that a judge may serve as executor for a member of the judge's family provided that such service will not interfere with the proper performance of judicial duties. The Committee unanimously determined that the first cousin qualifies as a member of the Judicial Official's family as defined in the Code and, consistent with Rule 3.8, that the Judicial Official may serve as a fiduciary of the estate of the first cousin subject to the following conditions:

1. Pursuant to Rule 3.8(a), acceptance of the appointment and service as a fiduciary should not interfere with the proper performance of the Judicial Official's judicial duties;
2. Pursuant to Rule 3.8(b), the Judicial Official should not accept the appointment if it is likely that he/she, in the fiduciary capacity, will be engaged in proceedings that would ordinarily come before the Judicial Official or if the estate becomes involved in an adversary proceeding in the court on which the Judicial Official serves or one under its appellate jurisdiction;
3. Pursuant to Rule 3.8(c), the Judicial Official is subject to the same restrictions on financial activities in his or her capacity as a fiduciary that apply to the Judicial Official in his or her personal capacity;

4. Pursuant to Rule 3.10, the Judicial Official should not practice law on behalf of the estate; and
 5. Pursuant to Rule 3.11, the Judicial Official should refrain from financial and business dealings on behalf of the estate that tend to reflect adversely on the Judicial Official's impartiality, interfere with the proper performance of the judicial position, or involve the Judicial Official in frequent transactions with lawyers or persons likely to come before the court on which the Judicial Official serves.
- IV. The Committee discussed Judicial Ethics Informal 2012-05 concerning whether a Judicial Official may provide a letter of reference for an individual who has been independently nominated as a Youth of the Year by a 501(c)(3) organization.

The facts presented included that the Judicial Official has personal knowledge of the youth from the Judicial Official's involvement in non-judicial activities, that the youth is not a relative of the inquiring Judicial Official, that the youth is required to include references from the most influential adults in his or her life, and that the letter of recommendation should address, *inter alia*, the youth's character, leadership and moral standards.

Rule 1.3 of the Code of Judicial Conduct provides that a judge may not use or allow others to use the prestige of judicial office to advance the personal interest of others. Comment (2) to Rule 1.3 provides that a judge may provide a letter of recommendation for an individual based on the judge's personal knowledge of the individual, and it further provides that the judge may use official letterhead if the judge indicates that the reference is personal and if the use of judicial letterhead would not reasonably be perceived as an attempt to exert pressure by reason of the judicial office. Consistent with Rule 1.3 and Comment (2), the Committee determined that the requested letter would not constitute the use of the prestige of judicial office to advance the personal interests of another individual provided that the recommendation would be based upon the Judicial Official's personal knowledge. Based upon the foregoing, the Committee unanimously determined that it was permissible for the Judicial Official to provide a letter of reference subject to the following conditions:

1. The Judicial Official has personal knowledge of the youth's qualifications that are relevant to the particular award;
2. The youth is not, as noted in the inquiry, a relative within the meaning of the Code or C.G.S. § 51-39a;
3. The Judicial Official indicates that the opinions expressed represent the personal opinions of the Judicial Official;
4. Neither the youth nor the nominating organization currently are appearing before the Judicial Official nor did they or do they appear before the Judicial Official within a reasonable period, under the circumstances, of the submission of the letter of recommendation; and

5. If the Judicial Official believes that recusal would be required in order to comply with condition (4) because his or her fairness would be impaired, and that recusal is likely to be frequent, the Judicial Official should not provide the letter of recommendation.

V. The meeting adjourned at 1:38 p.m.